

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION - BAY CITY

IN RE:

MICHAEL B. WHITE and
DARLA K. WHITE,
Debtor.

Case No. 13-21977-dob
Chapter 7 Proceeding
Hon. Daniel S. Opperman

MICHAEL B. WHITE,
Plaintiff,

v.

Adv. Proc. No. 21-02033-dob

MICHAEL RINESS, ELIZABETH RINESS, AND
JPMORGAN CHASE BANK, N.A.,
Defendants.

ORDER REGARDING PLAINTIFF'S MOTION FOR CLARIFICATION
AND RECONSIDERATION OF OPINION PARTIALLY GRANTING
MOTION TO DISMISS FILED BY DEFENDANT JPMORGAN CHASE BANK, N.A.
ENTERED ON MAY 5, 2022 (DOCKET NO. 85)

On May 5, 2022, the Court entered an Opinion Partially Granting the Motion To Dismiss filed by Defendant JPMorgan Chase Bank, N.A. ("JPMorgan"). On May 18, 2022, Plaintiff Michael White filed a Motion for Clarification and Reconsideration of that Order.

Pursuant to Rule 9024-1(a) of the Local Rules for the U.S. Bankruptcy Court for the Eastern District of Michigan, a motion for reconsideration may be filed within 14 days after the order to which it objects is issued. It should be granted if the movant demonstrates that the Court and the parties have been misled by a palpable defect and that a different disposition of the case must result from a correction of such palpable defect. A motion that merely presents the same issues already ruled upon by the Court, either expressly or by reasonable implication, shall not be granted. To establish a "palpable defect," the moving party generally must point to a: "(1) clear

error of law; (2) newly discovered evidence; (3) an intervening change in controlling law; or (4) a need to prevent manifest injustice.” *Henderson v. Walled Lake Consol. Schools*, 469 F.3d 479, 496 (6th Cir. 2006) (quoting *Intera Corp. v. Henderson*, 428 F.3d 605, 620 (6th Cir. 2005) (analyzing “palpable defect” standard in the context of a Federal Rule of Civil Procedure 59(e) motion to alter or amend judgment, which was held to be consistent with the applicable local rule “palpable defect” reconsideration standard). A “palpable defect” is “obvious, clear, unmistakable, manifest, or plain.” *Michigan Dept. of Treasury v. Michalec*, 181 F. Supp.2d 731, 734 (E.D. Mich. 2002) (citing *Marketing Displays, Inc. v. Traffix Devices, Inc.*, 971 F. Supp.2d 262, 278 (E.D. Mich. 1997)).

Plaintiff raises numerous arguments in support of his Motion. Plaintiff points out that the May 5, 2022 Opinion has no accompanying order. The Court agrees this is necessary, and clarifies such. Accordingly, the Court directs JPMorgan, as the prevailing party, to prepare and present an order consistent with this Court’s Opinion under the applicable presentment of order procedures of this Court.

Plaintiff also asks this Court to clarify “whether it is a non-appealable interim order or a final appealable order.” This determination is made by reference to 11 U.S.C. § 158(a), Federal Rules of Bankruptcy Procedure, and applicable law. Plaintiff has demonstrated his capability to make such determinations for himself.

Plaintiff argues that the Court’s reliance on the Rooker Feldman doctrine in its Opinion was in error because such was not raised by JPMorgan in its Motion To Dismiss. Plaintiff is incorrect—the Rooker Feldman doctrine was raised by JPMorgan in its Reply Brief filed on March 15, 2022, Docket #60, Pages 5-6. This doctrine was also raised at oral argument at the April 6, 2022 hearing. Even if not raised by JPMorgan, the Court was free to raise it on its own

accord. The Court concludes there was no palpable error as to its conclusion that the Rooker Feldman doctrine bars this Court from acting as a reviewing, or appellate court of the Michigan Court of Appeals or Michigan Supreme Court decisions.

Plaintiff spends the remainder of his Motion for Clarification and Reconsideration rearguing his objections to the Motion To Dismiss and otherwise disagreeing with its findings in the May 5, 2022 Opinion. The Court concludes there was no palpable defect or error in fact or law in its Opinion. Plaintiff simply does not agree with the Court's findings of fact, conclusions of law and analysis in its 17-page Opinion, an Opinion entered by the Court after consideration of extensive briefing and oral argument.

WHEREFORE, IT IS HEREBY ORDERED that the Court's May 5, 2022 Opinion Partially Granting the Motion To Dismiss filed by Defendant JPMorgan Chase Bank, N.A. is CLARIFIED to direct JPMorgan, as the prevailing party, to prepare and present an order to the Court consistent with the applicable presentment procedures of this Court.

IT IS FURTHER ORDERED that the remainder of Plaintiff's Motion for Clarification and/or Reconsideration is DENIED.

Signed on May 23, 2022



/s/ Daniel S. Opperman

Daniel S. Opperman
United States Bankruptcy Judge